BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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| In the Matter of | ) | |
| | ) | |
| Amendment of Part 101 of the Commission's | ) | WT Docket No. 00-19 |
| Rules to Streamline Processing of Microwave | ) | |
| Applications in the Wireless | ) | |
| Telecommunications Services | ) | |
| | ) | |
| Telecommunications Industry Association | ) | RM-9418 |
| Petition for Rulemaking | ) | |

**REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC.**

Winstar Communications, Inc. ("Winstar"), by its attorneys, hereby submits its reply comments in the above-captioned proceedings.[1]

## I. INTRODUCTION AND SUMMARY.

Winstar opposes the proposal of Consolidated Spectrum Services ("Consolidated") that the Commission should designate the entire 23 GHz band for low power limited coverage systems with transmitter powers of less than 0.1 watts.[2] Winstar agrees with the National Spectrum Managers Association ("NSMA") and Comsearch that designating additional channels for low power operations would be unnecessary if the Commission adopts the proposed changes to its antennas standards.[3]

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1 Amendment of Part 101 of the Commission's Rules to Streamline Processing of Microwave Applications in the Wireless Telecommunications Services; Telecommunications Industry Association Petition for Rulemaking, WT Docket No. 00-19, RM-9418, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, FCC 00-33 (rel. Feb. 14, 2000) ("Notice").

2 Consolidated Comments, at 3.

3 NSMA Comments, at 11-12; Comsearch Comments, at 6-7.

Winstar also opposes Motorola's suggestion that the Commission amend the frequency tolerance table at Rule 101.113(a) to reduce the maximum allowable equivalent isotropically radiated power ("EIRP") for LMDS hub stations operating at 27.50-28.35 GHz to +30 dBW/MHz.[4] The Commission should retain the current allocation of 55 dBW contained in Rule 101.113(a) for LMDS hub stations because it is consistent with the EIRP for 39 GHz transmitters. This would permit licensees in both the 39 GHz and LMDS bands, such as Winstar, to design and integrate their systems more easily.

Winstar agrees with Triton Network Systems, Inc. ("Triton"), that the Commission must amend its rules to permit all point-to-multipoint 39 GHz and LMDS equipment to be subject to verification by the manufacturer, rather than certificated by the Commission.[5] In addition, the Commission must permit point-to-point LMDS equipment to be subject to the less burdensome verification procedures to promote regulatory parity with other Part 101 services.[6]

Finally, Winstar notes that commenters addressing the Commission's proposals to auction fixed point-to-point terrestrial microwave radio service ("FS") links are in agreement that FS spectrum should not be auctioned. The current licensing process results in few mutually exclusive requests. Auctioning this spectrum would prevent the licensees' from meeting their needs for additional links in a flexible and timely manner.

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4 Motorola Comments, at 2.

5 Triton Comments, at 2.

6 Id.

## II. THE COMMISSION SHOULD NOT ALLOCATE MORE THAN 200 MHZ FOR LOW POWER LIMITED COVERAGE SYSTEMS IN THE 23 GHZ BAND.

Consolidated proposes that the Commission designate the entire 23 GHz band for low power limited coverage systems with transmitter powers of less than 0.1 watts.[7] Winstar cautions that designating the entire band for lower power operations would reduce the number of frequencies eligible for high power operations and therefore opposes the Consolidated proposal.[8]

Several commenters support TIA's proposals to facilitate access to the 23 GHz band because this band is suitable for a wide variety of fixed point-to-point terrestrial microwave radio services.[9] Designating the entire 23 GHz band for low power operations would reduce the flexibility of the band. In addition, as noted by NSMA and Comsearch, if the Commission adopts the proposed changes to the antenna standards (permitting 1 foot antennas), designating additional channels for low power operations would be unnecessary.[10] Thus, to ensure maximum flexibility in the 23 GHz band for all fixed service providers, the Commission should not designate more than 200 MHz of additional spectrum for low power systems.

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7 Consolidated Comments, at 3.

8 Winstar Comments, at 8.

9 See Alcatel Comments, at 5; NSMA Comments, at 5.

10 NSMA Comments, at 11-12; Comsearch Comments, at 6-7.

## III. WINSTAR OPPOSES MOTOROLA'S SUGGESTION THAT THE COMMISSION MODIFY THE MAXIMUM ALLOWABLE EIRP FOR LMDS HUB STATIONS OPERATING IN THE 27.50-28.35 GHZ BAND.

Motorola recommends that in addition to the proposed amendments to the frequency tolerance table at Rule 101.113(a) suggested in the Notice, the Commission should amend the table to reduce the maximum allowable EIRP for LMDS hub stations operating at 27.50-28.35 GHz to +30 dBW/MHz.[11] The table currently indicates that the maximum allowable EIRP for LMDS hub stations operating at 27.50-28.35 GHz is +55 dBW.[12] Winstar opposes any modification to Rule 101.113(a) for the reasons set forth below.

Motorola correctly points out that in adopting service rules for LMDS spectrum, the Commission determined that the maximum allowable EIRP for LMDS hubs operating in the 27.5-28.35 GHz and 31 GHz bands should be +30 dBW/HMz.[13] However, this change to the EIRP for LMDS hub stations was never incorporated into the Code of Federal Regulations ("C.F.R"). Moreover, the LMDS Second Report and Order was adopted more than three years ago, before the LMDS bands were initially licensed and the subsequent development of point-to-multipoint LMDS equipment.[14] In light of

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11 Motorola Comments, at 2.

12 47 C.F.R. § 101.113(a) (1999).

13 Motorola Comments, at 2; see In re Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, Second Report and Order, 12 FCC Rcd. 12545, at ¶ 290 (1997) ("LMDS Second Report and Order").

14 The FCC completed its auction no. 17 of 986 licenses for LMDS spectrum on March 25, 1998. FCC Announces the Conditional Grant of 265 LMDS Licenses

developments in the point-to-multipoint equipment industry as noted below, it no longer makes sense to reduce the EIRP for this service, as suggested by Motorola.

The EIRP for the 38.6 to 40.0 GHz ("39 GHz") band is 55 dBW, and much of the equipment at 39 GHz is being modified for LMDS operations. Retention of consistent transmitter power limitations for LMDS and 39 GHz equipment would serve the public interest because LMDS equipment could be produced more quickly, and licensees of both bands, such as Winstar, could design their systems more easily. Indeed, the Commission originally ". . . raise[d] the maximum EIRP to 55 dBW for all point-to-point microwave bands from 4 GHz to 40 GHz . . . to set a common standard for all bands."[15]

The Commission has the authority to adjust the maximum allowed EIRP for LMDS hub stations. Pursuant to ¶ 56 of the Notice, in which the Commission seeks comment on whether there are other technical rules applicable to LMDS that should be changed, the Commission should clarify that LMDS licensees may continue to utilize the +55 dBW standard.

## IV. WINSTAR SUPPORTS TRITON'S CLARIFICATION REQUEST REGARDING EQUIPMENT VERIFICATION PROCEDURES.

In its Comments, Winstar supported adoption of verification procedures for 39 GHz and LMDS transmitters.[16] Triton Network Systems ("Triton") correctly notes that the Commission's Rules permit verification for point-to-point transmitters in the 39 GHz

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and the Dismissal of One Application, Public Notice, DA 98-1748 (rel. Sept. 22, 1998).

15 In re Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, Report and Order, 11 FCC Rcd. 13449, at ¶ 54 (1996).

16 Winstar Comments, at 7.

band; however, all LMDS equipment, whether point-to-point or point-to-multipoint, is subject to certification.[17] Thus, the Commission must amend its rules to permit all 39 GHz and LMDS equipment to be subject to verification by the manufacturer, rather than subjecting it to certification by the Commission. Such an action would promote regulatory parity among similarly situated Part 101 services.

## V. THE COMMENTERS AGREE THAT FS SPECTRUM SHOULD NOT BE AUCTIONED.

Winstar agrees with the majority of commenters that FS spectrum in the identified point-to-point license bands should not be auctioned. Auctions are unnecessary in this instance because the current point-to-point licensing format accommodates a large number of applicants, resulting in very few instances of mutual exclusivity.[18] Moreover, subjecting microwave applicants to competitive bidding as contemplated in the Notice would make network development and maintenance more difficult for both the auction winner and the incumbent licensees.[19] Successful bidders and incumbent licensees would be unable to easily meet their needs for additional links in a timely and efficient matter.

The FS bands currently support an extremely diverse group of point-to-point licensees and no alternative spectrum has been identified for their relocation or expansion. What is needed is the release of additional uncongested spectrum bands for point-to-point licensing or auction, and not the constraint of the large number of licensees in these congested bands.

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17 Triton Comments, at 2 and n.1.

18 Notice, at ¶ 75; Comsearch Comments, at 10.

19 See Alcatel Comments, at 31; NSMA Comments, at 20.

## VI. CONCLUSION.

For the foregoing reasons, Winstar respectfully urges the Commission to take the actions outlined herein.

Respectfully submitted,

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August 3, 2000

CERTIFICATE OF SERVICE

I, Sophie J. Keefer, do hereby certify that on this 3rd day of August, 2000, copies of the foregoing "Reply Comments of Winstar Communications, Inc." were forwarded by first class U.S. mail unless otherwise indicated to the following parties:

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